In *James* v. *Wyvill*, 51 L.T.R., 237 the defendant was charged with erecting a new building without having given the prescribed notice and plans.

He was convicted and fined for each and every day during which such building should continue or remain, the offence being in its nature a continuing one. The conviction and fine were upheld by a Divisional Court. But it appears to me that to impose a fine for "Each and every day" without specifying the number of days may well involve the Court imposing a fine in respect of an idefinite number of days—even for days after the date of the conviction. Such a fine would be indefinite and the amount could not be ascertained without further inquiry after conviction. This point does not appear to have been taken in *Wyvill's* case. I have not access to the report of *R.* v. *Struve*, 59 J.P., 584, but it is stated in *Stone's* Justices Manual that *Struve's* case decided that such a conviction was clearly bad for imposing penalties for offences not then committed. In any case, the case is distinguishable from the present in which a default for a specified number of days was alleged.

The summons was not amended so the conviction must be taken to be a conviction for the default charged.

The Queen v. *Slade*, (1895) 2 Q.B. 247 was a proceeding by way of *certiorari*.

The appellant was fined in respect of a default continuing for over six months and the Court held that it could not take the conviction to pieces so as to reduce the fine by the amount imposed in respect of the days in excess of six months.

But in *Slade's* case no charge could properly be made in respect of a period anterior to six months before the laying of the information by reason of 11 & 12 Vic. Ch. 43, section 11. Here a charge could have been made in respect of the period from 13th May to 22nd June. The case is not one of *certiorari* and I can alter the sentence.

The fine imposed exceeded the maximum which could be imposed for the offence charged by $169.50. I accordingly reduce the fine by this amount.

Any fine paid by Lam Chip Heng in excess of $80 under this conviction must be refunded to Lam Chip Heng.

I regret the necessity for this order. There appear to be no merits in the petition. The proper authorities will possibly consider summoning the defendant for a continuing default from 13th May to 22nd June, if they can prove such default.

Sentence reduced.

[APPELLATE CRIMINAL JURISDICTION]

McELWAINE, C.J.

July 21, 1938.

REX v. BOOTA SINGH.

[SINGAPORE SPECIAL CASE No. 7 of 1938].

Validity of by-law—Singapore Harbour Board.

A by-law which forbids remaining on the premises of the Singapore Harbour Board is not to be read as also forbidding entrance to such premises for a legitimate purpose. If an individual had so abused his permission to enter the premises of the Singapore Harbour Board that the Board considered that restriction on his entrance was necessary such restriction could only eventually be enforced by written orders to the Police to prohibit such person entering or prescribing conditions under which his entrance was to be allowed.

Finding out whether a person had a legitimate reason for entering the premises is not under the by-law a purpose connected with the regulation of traffic.

CASE STATED.

Howe, Crown Counsel, for the Crown.

McELWAINE, C.J.—This is a case stated under section 317 of the Criminal Procedure Code.

The question shortly is whether failure by the driver of a taxi cab about to enter the Singapore Harbour Board's premises to comply with an order to stop given by a Harbour Board Policeman in uniform on duty regulating traffic on the Harbour Board Premises is an offence, if the order was given with the object of finding out whether the defendant had a legitimate reason for entering the premises.

The magistrate has found as a fact that the signal to stop having been given with the object of finding out whether the defendant had legitimate reason for entering the premises was given for the bona fide purpose of regulating traffic within the Board Premises, but he doubted whether the order to stop was a lawful order under By-law 45, and whether the By-law was valid.

The material by-laws are:—

"45. The admission of persons, carts, carriages or other vehicles, lighters or other craft within the Board's premises and their control while there shall rest with the Board, and the Board may make charges for such admission.

"45.(b) No person in charge of any vehicle or animal of whatsoever description may cause or allow any such to remain in or upon any part of the Board's premises for a longer period than can be shewn to the satisfaction of any authorised official of the Board to be strictly necessary for the legiti-

mate purpose for which their presence in or upon the Board's premises is required.

"45.(c) No person shall refuse to comply with any lawful order for the purpose of regulating traffic within the Board's premises given by any Police Officer in uniform."

I see no reason to doubt the validity of Bylaw 45. Although the Harbour Board is a public body its property is private property and so long as it does not discriminate unfairly between persons using the premises for the purposes of embarking or disembarking or for despatch or receipt of cargo, or any other purpose for implementing which the Board exists it seems to me it has full control over admission to its premises.

It follows that subject to what I have said about unfair discrimination the Board may lay down conditions of entry to be enforced by their police and other servants.

None of the bylaws cited other than No. 45 touches on the question of admission of taxis and other vehicles. The bylaw does not profess to prohibit, but under it the Board can give instructions to its police as to conditions of admission. The Magistrate does not find that any or what instructions were given and it therefore does not appear that in stopping the defendant the policeman was carrying out the orders of the Board.

Mr. Howe argued from bylaw 45(b) that it is only persons with legitimate business who may enter with vehicles.

The bylaw is directed against vehicles remaining—not "entering"—on the premises for a longer period than can be shown to the satisfaction of any authorised official of the Board to be strictly necessary for the legitimate purpose for which its presence is required.

The expression "legitimate purpose" is very vague. To be on the premises for a purpose for which the Board exists, namely, to send or receive sea borne goods or to embark or disembark, is a legitimate purpose. But, unless it is prohibited, to be on the premises for the purpose of meeting or seeing off passengers, or even for sight-seeing is for a legitimate purpose such purpose not being unlawful.

I have no doubt the Board does not desire to lay down any strict rule forbidding public entry for sightseeing or other innocent purpose when such entry does not cause obstruction or otherwise interfere with the work and duties of the Board or with persons having business for the facilitation of which the Board exists.

But even if "legitimate purpose" were more clearly defined, I do not think it would be proper in a quasi-criminal case to read a bylaw which forbids remaining on the premises as also forbidding entrance.

A policeman on duty would be perfectly justified in forbidding entrance if owing to the state of traffic on the premises the entrance of further vehicles would be dangerous or obstructive, and he can, of course, stop traffic until it is safe and proper for the traffic to proceed.

It may be that the police have orders relating to the entrance of taxis or other public hire vehicles, but such orders were not proved. If they were proved and showed that to carry them out it was necessary to stop the defendant entering, it would have been sufficient to support this conviction.

I think, however, that it would be more satisfactory if the regulations for taxis and vehicles plying for hire on the Board's premises were prescribed by bylaw, so that the owners and drivers of such vehicles would know that if they are stopped, it is in accordance with the Board's orders and not by the mere whim of a policeman.

But it is conceivable that some individual might have so abused permission to enter that the Board considered that restriction on his entrance was necessary, such restriction could only be conveniently enforced by written orders to the police to prohibit such person entering or prescribing the conditions under which his entrance was to be allowed.

In my opinion "finding out whether the defendant had a legitimate reason for entering the premises" is not, under the bylaws or under any circumstances found to have been proved in the case, a purpose connected with the regulation of traffic and an order to stop with the sole object of finding out the purpose for which the defendant was entering was not shewn to be an order for regulating traffic.

The conviction is quashed.

Conviction quashed.

END OF STRAITS SETTLEMENTS OFFICIAL REPORTS.